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Policy Forum

Employer Retirement Programs and Social Security

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1:00 p.m. - 5:00 p.m.

Dirksen Senate Office Building Room SD106

I.	Social Security: Structure/Benefits/ Contributions	Lawrence Thompson U.S. General Accounting Office
II.	Overview: Coordinating Pensions with Social Security (How it is done today)	Charles E. Ginsberg Alexander & Alexander Inc.
III.	Options: Coordinating Pensions with Social Security (Alternative approaches--full range)	Manuel Castells Kwasha Lipton
IV.	Issues and Complications	John Fleming Bakery and Confectionary Union & Industry International Health Benefits & Pension Funds Keith J. Goodell United Technologies Corporation

Remarks by John J. Fleming, Administrative Director

Bakery and Confectionery Union and Industry International Health Benefits and Pension Funds

Introduction

Personal role in Private Pensions --

Not a spokesman for B.C.&T or any Union -

Rather a neutral observer of Private Pension Community

B&C Fund

Number of Pensioners

Number of Participants

Amount of Assets

Percentage of Funding

Review of benefits currently being paid monthly to pensioners. Consideration of what it would be like without those benefits.

Four Major Issues

1. Control of funds and investment of funds.
2. Defined Benefit or Defined Contribution.
3. Integration with Social Security or non-integration.
4. Contributory or non-contributory.

Historical Perspective

Three Eras

I. Pre - 1949

II. 1949 - 1974 (ERISA)

III. Post ERISA

Pre 1949.

Types of Plans in existance

a) Mostly company plans

b) Limited amount of coverage in terms of numbers of people.

c) Railroad Retirement System was in existence.

d) United Mine Workers had begun Multiemployer Plan.

<u>Issue I.</u>

Control of investments and rules and regulations of the Plans were the exclusive domain of the Employer who was the sponsor of the Plan . Contained bad boy clauses and were generally considered a generous provision of the employer who had set them up voluntarily without the pressures which came into play later.

Issue II.

They were generally defined benefit although there were defined contribution plans in effect as well. It is interesting to note that the first regulation in the Internal Revenue Code dealt with profit-sharing plans rather than pure pension plans.

Issue III.

Integration or non-integration -- The original regulations on integration were written during this period after Social Security had become effective. It is interesting to note that Social Security was written in such a fashion as to tilt in favor of the lower paid worker and the Integration Rules of the Internal Revenue Code are written in such a fashion as to correct the tilt.

Issue IV.

Contributory or non-contributory -- Many of the Plans in existence before 1949 did provide for contributions but I have not been able to get statistics which would tell us whether they constituted a majority. My guess is that they did not but that is simply a guess.

Era II - Post 1949 --

The Supreme Court decision re Inland Steel vs. United Steelworkers provided for bargaining for pensions.

Shortly thereafter a wage freeze because of the Korean Conflict occurred.

The two events acted as double doors for the spectacular growth of Pension Plans.

Several years previous the National Labor Relations Act of 1947 was written. Its purpose was to show the growth of collective bargaining and it probable succeeded but it also had an unintended effect. It established the framework for Multiemployer Plans which were then known as Taft-Hartley Funds.

Issue Number I.

Control of the Funds and Investment of the Funds -- The possibility of Taft-Hartley Funds made it feasible to establish craft wide pension funds either on a local, regional or national basis - indeed several

are international because they cover the same crafts in Canada as well as the United States.

The investment of the funds that resulted were the responsibility of a joint Board of Trustees composed of Union Trustees and Employer Trustees.

This methodology was particularly appropriate for the Construction Trades where their were many small employers who could not economically provide the same pensions as a large trust.

The large industrial unions negotiated the benefits and the terms under which the benefits were to be paid but the management of the assets remained in the hands of each individual employer.

Issue II.

Defined Benefit or Defined Contribution -- The Plans which fall into the two catagories above, that is, multiemployer funds and single employer negotiated funds were nearly universally defined benefit funds.

Issue III.

Integration or non-Integration -- Unions in their collective bargaining posture strongly resisted Integration.

I know of no multiemployer fund that provides for integration although some might exist. The vast majority of negotiated single employer plans with which I am familiar also do not contain provisions for integration although some certainly exist.

Issue IV.

Contributory or Non-Contributory -- Again, multi-employer plans have resisted any form of individual contributions.

In single employer collectively bargained plans the unions also resisted individual contributions although again such plans do exist.

The spectacular growth of pension plans continued through the 50's and on into the 60's.

As can be expected with such growth and the paucity

of legislation or regulation abuses to the system crept in and legislation was proposed for many years to bring the abuses to a halt. Ultimately in 1974 we ended up with ERISA which marked the end of an era but unmistakeably created a whole new era of its own.

There seems to be a principle that proposed legislation grows rather than condenses by the time it is written. That principle we certainly observed in ERISA. By the time of its enactment it had swollen to 278 closely typed pages.

<u>Post ERISA</u>

Perhaps the single most publicized event leading to ERISA was the collapse of the Studebaker Company and the concomitant collapse of the Studebakers Employees' Pension Plan.

<u>Issue I.</u>

Control of Funds and investment of Funds -- One of the cornerstones of ERISA was the "Prudent Man Rule". In the Studebaker situation the company had elected to invest the Pension Funds in the Company itself.

When the Company collapsed the portfolio of the employees pension plan was worthless and those employees, after many years of work for the Company had no benefits whatsoever.

In a position paper several years ago the Industrial Union Department has gone on record to advocate that where possible the control of pension funds be shared equally by union and management as presently exists in the Multiemployer field.

Issue II.

Defined Benefit or Defined Contribution Fund -- Another feature of ERISA was the establishment of the Pension Benefit Guarantee Corporation.

That insurance has protected tens of thousands of participants who would otherwise have lost their pension because of Plan failure. More recently M.E.P.P.A. was enacted to provide the same protection to Multiemployer Funds through the use of a different mechanism (Withdrawal Liability). The provisions of ERISA have caused plan designers to take a hard look at their plans.

A defined contribution plan does not participate in the P.B.G.C. scheme and thus costs and reporting requirements are eliminated. Additionally unfunded liability doesn't exist and thus doesn't appear either as a footnote or on the balance sheet.

Because of these reasons there has certainly been a favoring of defined contribution plans even those plans contain weaknesses as regards the participant.

I believe unions will continue to resist defined contribution plans unless they are an addition to an already existing defined benefit plan.

Issues three and four have remained the same across all three eras and will undoubtedly continue on into the future.

CONCLUSION

I would be evasive if I did not here include a fifth issue which has arisen in the recent past but which I believe contains a great deal of future debate and disagreement.

That issue is the termination of over funded plans and the re-capturing of excess assets. The principle involved can be stated simply.

Does the money in the portfolio belong to the persons on whom it was contributed or, if the promise is fulfilled, does money over and above the promise belong to the employer?

This problem is heavily impacted by the defined benefit or defined contribution controversy as well as the unfunded liability controversy and will in my opinion heat-up in the immediate future.

And so the industry goes on with old and new controversy but as I indicated in my opening remarks, I would hate to think of our society and our economy without it.